



**FILED**  
8-03-15  
01:45 PM

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

In the Matter of the Application of  
Southwest Gas Corporation (U905G) for  
Approval of Low-Income Programs and  
Budgets for Program Years 2015-2017.

Application 15-02-001  
(Filed February 2, 2015)

And Related Matters.

Application 15-02-002  
Application 15-02-003  
Application 15-02-013  
Application 15-02-024  
Application 15-03-004

**SCOPING MEMO AND RULING OF ASSIGNED COMMISSIONER  
AND ADMINISTRATIVE LAW JUDGE**

**Summary**

Pursuant to Rule 7.3 of the California Public Utilities Commission's Rules of Practice and Procedure (Rules),<sup>1</sup> this Scoping Memo and Ruling sets forth the procedural schedule, assigns the presiding officer, addresses the scope of this proceeding, as well as other procedural matters, following the prehearing conference held on May 5, 2015. This consolidated proceeding relates to the 2015-2017 Energy Saving Assistance Program and California Alternate Rates for

<sup>1</sup> All references to Rules are to the Commission's Rules of Practice and Procedure, which are available on the Commission's website at:

[http://docs.cpuc.ca.gov/word\\_pdf/RULES\\_PRAC/70731.pdf](http://docs.cpuc.ca.gov/word_pdf/RULES_PRAC/70731.pdf).

Energy Program budget applications of Southwest Gas Corporation, Golden State Water Company, Liberty Utilities, PacifiCorp, West Coast Gas Company, and Alpine Natural Gas Operating Company No. 1, collectively the Small and Multijurisdictional Utilities.

## **1. Procedural and Substantive Background**

On February 2, 2015, Southwest Gas Corporation, Golden State Water Company, Liberty Utilities, and PacifiCorp submitted their applications for the 2015-2017 California Alternate Rates for Energy (CARE) and Energy Savings Assistance (ESA) Programs. West Coast Gas Company and Alpine Natural Gas Company No. 1 submitted their applications on February 9, 2015, and March 18, 2015, respectively. These applications reflect proposals for program budgets, homes treated targets, energy efficiency measures, and Small and Multijurisdictional Utilities (SMJU) marketing, outreach and enrollment practices, among other program and policy changes.

The ESA program was originally offered as an assistance program directly from a few Investor Owned Utilities (IOUs) in the 1980s, and then was adopted by the legislature in 1990.<sup>2</sup> The original objective of the program was to promote equity and to help relieve low-income customers of the burden of rising energy prices.<sup>3</sup> In the California Long-Term Energy Efficiency Strategic Plan (Strategic Plan), the California Public Utilities Commission (Commission) made clear that the ESA Program was also meant to be a resource program and achieve energy savings. The SMJUs were directed by the Commission to implement the ESA Program to ensure state-wide energy savings while also improving low-income

---

<sup>2</sup> California Public Utility Code (Pub. Util. Code) Section 2790.

<sup>3</sup> Decision (D.) 07-12-051.

customers' quality of life. Qualified customers consist of those living in residential single-family households, multi-family households and mobile homes with incomes at or below 200% of the Federal Poverty Guideline.

Current implementation of the ESA program works to achieve both of these objectives by providing no-cost home weatherization services and energy efficiency measures to help low-income households: (1) conserve energy; (2) reduce energy costs; and (3) improve health, comfort and safety. The program also provides information and education to promote a more energy efficient culture in low-income communities. Finally, the Commission's Strategic Plan set an aspirational goal to treat 100% of all eligible and willing low-income homes by 2020.<sup>4</sup> This was later codified into Pub. Util. Code § 382(e).

The CARE Program is a low-income energy rate assistance program instituted in 1989 authorizing a discount on energy rates for low-income households with incomes at or below 200% of the Federal Poverty Guideline. Qualified customers consist of residential single-family households, tenants of sub-metered residential facilities, non-profit group living facilities, agricultural employee housing facilities, and migrant farm worker housing centers. The minimum discount, originally established at 15% in 1989, was increased to 20% in 2001.

The SMJUs are responsible for executing strategies to cost-effectively identify, target, and reach those remaining CARE and ESA eligible customers that are not currently served by the programs. They balance the need to serve

---

<sup>4</sup> Decision (D.) 12-08-044 at 18-20.

the maximum number of eligible households with the need to verify that those enrolled in the program are eligible.<sup>5</sup>

On April 1, 2015, the assigned Administrative Law Judge (ALJ) issued a ruling consolidating the proceedings in Application (A.) 15-02-001, A.15-02-002, A.15-02-003, A.15-02-013, A.15-02-024, and A.15-03-004, from which this consolidated proceeding follows as A.15-02-001 et al. On May 5, 2015, the assigned ALJ Anthony W. Colbert conducted a prehearing conference (PHC) in the consolidated proceeding. At the PHC, the parties were instructed to file post PHC statements by May 22, 2015, to respond to the Energy Division's proposed scope and list of issues, as well as raise other issues parties sought to be included within the scope of this proceeding. In their post-PHC statement, the Joint Parties<sup>6</sup> supported the Energy Division's proposed scope outlined in the ruling issued by ALJ Colbert on April 1, 2015. However, the parties requested several modifications to the proposed proceeding schedule – they asked that testimony, hearings, and briefing not be required, because the applications are uncontested and the parties' proposed modifications provide opportunity for meaningful stakeholder input. The Joint Parties also requested that Energy Division facilitate a workshop to review the programs proposed by the Joint Applicants; this request was granted and the workshop was scheduled for June 29, 2015.<sup>7</sup> During the workshop the Small Multijurisdictional Utilities discussed past and planned performance with respect to the CARE and ESA

---

<sup>5</sup> D.12-08-044.

<sup>6</sup> Liberty, Bear Valley, Pacific Power, Southwest Gas, EE council, Proteus.

<sup>7</sup> June 15, 2015, E-mail Ruling Setting Date and Time for Workshop in the Instant Proceeding.

Programs. The workshop meets the requirement of Ordering Paragraph 25 of D.14-05-004 [in the prior Small Multijurisdictional Utilities' proceeding docket, A.11-06-016] for an annual public workshop, but does not preclude any utility from holding additional public workshop(s) in their own service territories.

The CPUC Low Income Oversight Board, established by statute to advise the CPUC on issues affecting low income ratepayers including those who live in areas served by SMJUs, will host a SMJU Workshop at its August 19 Board meeting. The LIOB Workshop is noticed herein so that CPUC Decision-Makers can attend without invoking the ex parte rules. The August 19 Workshop will facilitate discussion of the SMJU ESA work over the past year, their proposals for the next ESA cycle, and questions about issues such as the opportunities for ESA to address the Water-Energy nexus and the drought, multi-family housing, and the effect of CPUC ESA program rules on implementation, unspent balances, and achievement of program objectives.

## **2. Scope of Issues within the Consolidated Proceeding**

On April 25, 2014, the Governor declared a continued state of emergency regarding the drought,<sup>8</sup> and on April 1, 2015, the Governor issued an Executive Order mandating substantial water reductions throughout the state in light of the ongoing drought emergency.<sup>9</sup>

It is important to note that as we move forward in this proceeding, we are looking to identify items and measures that will assist the State's mission to mitigate the impacts of the severe drought. Bold ideas to address the drought are

---

<sup>8</sup> <http://gov.ca.gov/news.php?id=18496>.

<sup>9</sup> [http://gov.ca.gov/docs/4.1.15\\_Executive\\_Order.pdf](http://gov.ca.gov/docs/4.1.15_Executive_Order.pdf)

explicitly requested insofar as they fall within the scope of this proceeding. It is therefore important to note that some items to address the drought emergency and Governor's Executive Order may be considered through one or more Resolutions or Proposed Decisions beginning in May 2015 to effectively address the emergency.

The issues that follow, most of which were originally identified in the ALJ's April 1st Ruling and briefly discussed during the PHC, are determined to be within the scope of the consolidated proceeding. Section C contains questions presented to the parties so that the Commission may obtain further clarification and information regarding particular aspects of the California Alternate Rates for Energy (CARE) and Energy Savings Assistance (ESA) Programs. We request that parties file and serve written responses to those questions along with their Post-Workshop Comments due August 14, 2015.

#### **A. Program Implementation**

1. How modification of the 10 year go-back rule for the Energy Savings Assistance Program could enable more successful implementation of the ESA program;
2. Elimination/modification of the modified three-measure minimum rule;
3. Approval, removal, and/or retirement of measures (including the process the Small and Multijurisdictional Utilities (SMJUs) use to introduce, evaluate or retire measures from the program, evaluation of changes to measure-specific price caps, co-pays, measure replacement criteria, per measure caps, as well as review of alternative approaches to add new measures to the program mid-cycle);

4. Modification and/or determination of the Willingness to Participate factor used in estimating and calculating the eligible low income population (including consideration of setting enrollment goals for targeted populations);
5. Evaluation of existing processes to retain eligible households in the California Alternatives for California Alternate Rates for Energy Program;
6. Modification of the fund shifting rules;
7. Evaluation of the SMJU coordination efforts with the Department of Community Services and Development, other utilities including California Lifeline providers, Community Based Organizations, local, regional, state and federal government bodies, and tribes to achieve the goals of the ESA Program; and
8. Evaluation of the SMJUs' efforts to address the Water- Energy Nexus issues, the drought emergency, and Governor Brown's Executive Order of April 1, 2014, regarding the drought, including partnerships with water utilities and utilization of the water-energy nexus draft cost calculator for measure evaluation<sup>10</sup>;
9. Determination of how future updates to the Statewide Policy & Procedure and California Installation Standards Manuals should be managed and approved;
10. Evaluation of potential safety concerns and whether the health, comfort, and safety of SMJU residents are improved as a result of the existing programs; and

---

<sup>10</sup> <http://www.cpuc.ca.gov/PUC/energy/Energy+Efficiency/Water-Energy+Nexus+Programs.htm>.

11. Evaluation of water-saving measures that also generate energy savings, including embedded energy not reflected on utility energy bills; and an exploration of the possible use of the updated Water-Energy Calculator under development in proceeding R.13-12-011 for use in SMJU service territories.<sup>11</sup>

## **B. Studies, Pilots, and Other Funding Requests**

1. Evaluation of the SMJUs' proposed ESA Program budgets including carry over funds and underlying assumptions and estimates;
2. Evaluation of the SMJUs' proposed ESA Program home treatment goals;
3. Evaluation of the SMJUs' proposed CARE budgets, including carry over funds and underlying assumptions and estimates;
4. Evaluation of SMJU obligations including funding regarding the Low Income Needs Assessment study budget and scope;
5. Evaluation of the SMJUs' energy education programs;
6. Evaluation of the pilots budgets and scope (including Bear Valley's electric space heater proposal);
7. Evaluation of the SMJUs' plan for treatment and improved penetration rate for the multifamily sector; and evaluation of measures to address multi-family households, including common areas.

---

<sup>11</sup> *Ibid.*



8. Any other issue expressly added by the assigned ALJ or Commissioner following this ruling.

### **C. Questions Requiring Responses**

1. What program or other barriers to deploying ESA funds, including carryover funds, exist? Does your SMJU have per household caps on the number of measures allowed to be installed or per measure caps? How does this affect deploying ESA Program funds?
2. What, if any, rule or program changes do you propose to achieve the ESAP goals, including deployment of carryover ESAP funds and addressing the Water-Energy Nexus and the drought?
3. In what ways do you intend to address the needs of eligible households in the multifamily sector in your service territory, including treatment of common areas?

### **3. Issues outside the Scope of the Consolidated Proceeding**

Unless expressly added by the assigned ALJ or Commissioner, any major issues not set forth in the foregoing section of this ruling are outside of the scope this proceeding and/or are issues that will not be addressed in the upcoming decision on the SMJU's 2015 - 2017 CARE and ESA Programs.

### **4. Discovery**

The discovery cut-off date mandates that no new discovery requests be issued after that cut-off date. However, the Assigned ALJ may address motions to extend the discovery deadline on a case-by-case basis. The burden will be on the requesting party to show good cause for why an extension is necessary.

## 5. Schedule for the Consolidated Proceeding

In an effort to ensure that the Commission reaches a timely decision, the preliminary proceeding schedule has been modified in accordance with the changes requested in the Joint Parties' Post PHC Statement. Modifications to the proposed schedule include removal of testimony, briefs, and hearings from the proceeding schedule and inclusion of the aforementioned workshop on June 29, 2015, as well as post workshop comments and replies. The modified proceeding schedule for the Consolidated Proceeding is as follows:

### SCHEDULE

#### Proceeding Schedule

Event	Proposed Deadline
Prehearing Conference, Held	May 5, 2015
Post PHC Joint Statement, Issued	May 22, 2015
Public Workshop	June 29, 2015
Scoping Memo Issued	July 31, 2015
Post-Workshop Comments & Responses to Questions	August 14, 2015
Discovery Cut-Off	August 17, 2015
Low Income Oversight Board Meeting Workshop in Santa Ana	August 19, 2015
Post-Workshop Reply Comments	August 24, 2015
Anticipated Proposed Decision	October 2015
Comments/Replies on Proposed Decision	November 2015
Final Decision (Anticipated)	December 2015

Our goal is to resolve this case as soon as possible. The proceeding will stand submitted upon the filing of post workshop reply comments, unless the ALJ orders further evidence or argument. We anticipate that the resolution will not exceed 18 months from issuance of this scoping memo, pursuant to Pub. Util. Code § 1701.5. The assigned ALJ and Commissioner may alter this schedule as they see fit.

## **6. Filings and Service of Documents**

All documents required to be filed in the proceeding shall be filed with the Commission's Docket Office in accordance with Commission Rules of Practice and Procedure (Rules). Article 1 of the Rules contains all of the Commission's filing requirements. Prepared testimony is only served, not filed. The parties must serve all prepared testimony and other documents required to be filed in this proceeding on each other, with a copy to the assigned ALJ, by the deadlines stated in this ruling. Service must be via personal delivery, facsimile, overnight mail or by e-mail. The parties must comply with Rule 1.10 regarding the service of documents via e-mail. As previously noted, prepared testimony should not be filed with the Docket Office but is to be served on the opposing party and all members of the service list and submitted to the assigned ALJ. Parties are encouraged to file and serve electronically, whenever possible, as it speeds processing of the filings and allows them to be posted on the Commission's website. More information about electronic filing is available at <http://www.cpuc.ca.gov/puc/efiling>.

E-mail communication about this case should include, at a minimum, the following information on the subject line of the e-mail: A.15-02-001. In addition, the party sending the e-mail should briefly describe the nature of the attached communication; for example, Comments. The official service list for this proceeding is available on the Commission's web page. Parties should confirm that their information on the service list is correct, and serve notice of any errors on the Commission's Process Office, the service list, and the ALJ. Prior to serving any document, each party must ensure that it is using the most up to date service list. The service list on the Commission's website meets that definition. Any person interested in participating in this proceeding who is unfamiliar with the Commission's procedures or who has questions about the electronic filing procedures should contact the Commission's Public Advisor at (866) 849-8390 or (415) 703-2074, or (866) 836-7825 (TTY-toll free), or send an e-mail to [public.advisor@cpuc](mailto:public.advisor@cpuc)

## **7. Proceeding Category and Need for Hearing**

This is a ratesetting proceeding. There was a preliminary designation that there is a need for hearings. However, at this point, no hearings are expected. If there are any workshops in this proceeding, notices of such workshops will be posted on the Commission's Daily Calendar to inform the public that a decision-maker or an advisor may be present at those meetings or workshops. Parties shall check the Daily Calendar regularly for such notices." Decision-makers may attend the August 19 SMJU Workshop at the LIOB meeting.

## 8. Ex Parte Rules

Pub. Util. Code § 1701.1(c) defines *ex parte* communications as “any oral or written communication between a decision maker and a person with an interest in a matter before the commission concerning substantive...issues that does not occur in a public hearing...or other public proceeding...on the matter.”<sup>12</sup>

Rule 8.3 specifies that *ex parte* communications in a ratesetting proceeding are prohibited except under the following circumstances. Oral *ex parte* communications may be permitted by any Commissioner at any time, either through: 1) All Party meetings per rule 8.3 (c)(1) if all interested parties are invited and given not less than three days’ notice, or 2) individual *ex parte* meetings per rule 8.3 (c)(2) if the Commissioner grants a request for an individual *ex parte* meeting other parties are given equal time for such individual meetings, and notice of the meeting is provided to all parties consistent with rule 8.3(c)(2). Rule 8.3(c)(3) permits written *ex parte* communications by any party at any time provided copies of the communication are transmitted to all parties on the same day.<sup>13</sup> Parties are reminded that under rule 8.3(k) *ex parte* communications are not part of the record, and the decision will be based on the evidence of the record in the proceeding.

Rule 8.3 *et seq.* explains the *ex parte* rules in more detail. The Commission rules are available on the [www.cpuc.ca.gov](http://www.cpuc.ca.gov) website at <http://www.cpuc.ca.gov/PUC/documents/codelawspolicies.htm>.

---

<sup>12</sup> Pub. Util. Code § 1701.1.

<sup>13</sup> Rule 8.3(c).

**9. Assignment of Proceeding**

Commissioner Catherine J.K. Sandoval is the assigned Commissioner and pursuant to Rule 13.2(b), ALJ W. Anthony Colbert, is designated as the Presiding Officer.

**10. Intervenor Compensation**

Notices of intent to claim intervenor compensation are due by no later than August 17, 2015, pursuant to Rule 17.1(a).

**IT IS RULED that:**

1. The scope, issues, and schedule are set forth in Sections 2 and 5 in the body of this ruling unless amended by a subsequent ruling or order of the Presiding Officer.

2. A discovery cut-off date will be established, beyond which no new discovery requests will be considered.

3. After the discovery cut-off date, motions to extend the discovery deadline may be considered by the assigned Administrative Law Judge on a case-by-case basis.

4. This is a ratesetting proceeding (*See* Rule 7.1(a)). There was a preliminary determination that there is a need for evidentiary hearings. However, no hearings are expected at this point.

5. *Ex Parte* communications are prohibited in ratesetting proceedings except in the above stipulated circumstances, in accordance with Public Utilities Code Section 1701.1(c) and Rule 8.3.

6. Notices of intent to claim intervenor compensation are due by August 17, 2015.

7. Pursuant to Rule 13.2(a), Administrative Law Judge W. Anthony Colbert is the Presiding Officer.

Dated August 3, 2015, at San Francisco, California.

/s/ W. ANTHONY COLBERT

W. Anthony Colbert  
Administrative Law Judge

/s/ CATHERINE J.K. SANDOVAL

Catherine J.K. Sandoval  
Assigned Commissioner